

## "Saluting the Flag" in History

The following letter was addressed to Governor John H. Morehead, of Nebraska, by ex-Congressman W. L. Stark, in response to a request for information as to the history and law for the salute of the flag:

Aurora, Neb., April 27th, 1914.

Hon. John H. Morehead, Governor,  
Lincoln, Neb.

Sir: I have the honor to submit for your consideration the following. I have lately received a number of letters from ex-members of the Nebraska national guard, who request me to write them relative to the history and law for the "Salute to the Flag." A sense of military proprieties has moved me to answer their letters of inquiry with a statement that all communications by ex-members of the guards should be addressed to the commander-in-chief of our state, but under all the circumstances I beg leave to submit my views to you as a private citizen, you to make such use of my communication as you deem fit and proper. Of course, the same will not be given to the public by me.

### SALUTING THE FLAG

Under international law, a salute to the flag is defined to be: A public acknowledgement of an apology, made to the country, whose flag is saluted.

A flag salute as a form of redress is nothing unprecedented in American history.

Our navy was required in 1864 to fire a national salute in honor of Brazil, by order of President Lincoln, as a part of an apology for the violation of Brazilian sovereignty involved in the capture of the confederate cruiser Florida by the Wachusett within the harbor of Bahia.

The Brazilian government demanded the salute and got it.

For details, see, Digest of International Law, vol. 7, (1906 edition) page 1090, edited by John Bassett Moore, late assistant secretary of state of the United States.

In July 1890, the consulate of the United States at San Salvador, was violated by the forces of the provisional government.

Mr. Mizner, the American minister, demanded an apology, that the flag should be hoisted in broad daylight by uniformed commissioned officers of the provisional army, and that as the flag was hoisted, a military salute should be paid to it and money reparation for property destroyed. The demand was refused and the matter came to President Benjamin Harrison, who referred it to James G. Blaine, then secretary of state, who reported that: "The government of the United States could not with self respect, have accepted less reparation than Mr. Mizner, the American minister, had at the time proposed."

The Salvadorian government complied with the demand for apology, salute to the flag and the payment of \$2,500 in gold coin as damages.

See above Digest, vol. 5, page 51, and vol. 6, page 682, for details.

President Wilson and Secretary Bryan made the same demand of a provisional government, except no damages was asked, as President Harrison and Secretary Blaine had demanded in the above case. In both cases, the fleet arrived, Salvador complied, Mexico refused.

Under international law, our next step was to make a reprisal, which has been done by the seizure of Vera Cruz.

The practical application of the salute to the flag, in case now pending, rests not only on international law, but upon the fact that on account of the Huerta press and telegraph censorship, the official apology from Huerta might never be heard of by the Mexican people. But the salute of twenty-one guns would visibly establish the fact that the indignity to the American flag and uniform, had been fully redressed.

"The facts of the Tampico incident seem to put the Huerta government in the wrong. The foreign minister's declaration that there was no insult to the United States flag because there was no flag carried by Dolphin's boat is obviously untrue. A warship's boat going to the shore on such a mission, in a time of civil war, would necessarily carry the flag. Rear-Admiral Mayo is our authority in the first instance, for the statement that the blue-jackets were actually under the visible protection of their flag and President Wilson in his message states that two flags were carried, one in the bow and one in

the stern. Insofar as the final refusal of Huerta to salute was based on the absence of the United States flag from the Dolphin's boat, his case goes by the board. Conditions being what they were in Mexico, insistence upon the flag salute, as demanded by Read-Admiral Mayo, could scarcely have been waived by the United States government without, in effect, notifying all Europe that our claim under the Monroe doctrine to a predominant influence in the settlement of the Mexican difficulties and to a privileged and special guardianship of foreign interests in that stricken country was too far played out to warrant its being regarded any longer with deference or respect. The acquiescence without protest in Huerta's refusal to grant the salute, or even our repudiation of Admiral Mayo's demand, must have signified to foreign powers that our guardianship of their interests in Mexico had become nothing but a mockery."

I deem it proper to say, that criticisms of President Wilson and Secretary W. J. Bryan are criticisms of President Lincoln, Secretary of State W. H. Seward, President Harrison and Secretary of State James G. Blaine.

To my mind it is clear that the action of President Wilson and Secretary of State W. J. Bryan, is in accord with the precedents of our country, international law, and that they should be sustained by all patriotic citizens.

With expression of high personal esteem, I am  
Your respectfully,

W. L. STARK,

Late Major of Nebraska National Guard.

Below are the citations from the Digest of International Law, referred to by ex-Congressman Stark in his letter above.

The report on the Cruiser Florida case, Vol. 7, page 1090, is as follows:

In a note of December 12, 1864, which seems by an understanding between Mr. Seward and the Brazilian legation, not to have been formally submitted by the latter till the 21st of December, certain demands were presented in connection with the capture of the confederate cruiser Florida by the U. S. S. Wachusett at Bahia, Brazil, on the 7th of the preceding October. The Wachusett had been some days in port, when, on the 4th of October the Florida arrived, sixty-one days out from Teneriffe, and applied for permission to obtain provisions and coal and to repair her boilers which were in bad condition. The United States consul opposed her receiving any hospitality, but the authorities allowed her forty-eight hours for provisions and a further time for repairs, subject to an examination by a machinist, and the consul was said to have given a pledge for the observance of neutrality, by the commander of the Wachusett. At dawn of the 7th of October, however, the Wachusett was seen to leave her anchorage and approach the Florida and soon afterwards to fire on the latter. The commander of the Brazilian naval division then present intervened and the firing ceased. But it was soon afterwards perceived that the Florida was in motion, and that the Wachusett was towing her out to sea. The Brazilian commander pursued but could not overtake her, and the Florida was brought to Hampton Roads. The consul, who had been actively implicated in the affair, left on the Wachusett. The Brazilian government demanded (1) a "solemn and public declaration by the government of the union that it was surprised by the unusual action of the commander of the Wachusett, which it highly rebukes and condemns, regretting that it should have occurred;" (2) the "immediate dismissal of said commander, followed by the commencement of proper process;" and (3) "a salute of twenty-one guns to be given in the port of the capital of Bahia by some vessel of war of the United States, having hoisted at her masthead during such salute the Brazilian flag." The Brazilian government also claimed, "as reparation, full liberty to the crew and all individuals who were on board the Florida when she was captured; and the delivery of the vessel to the government of the emperor" in one of its ports.

Mr. Seward, December 26, 1864, replied that the president disavowed and regretted the proceedings at Bahia; that he would suspend the commander of the Wachusett and direct him to appear before a court-martial; that the consul, as he admitted that he advised and incited the commander, would be dismissed, and that the flag of Brazil would receive from the United

States navy the honor customary in the intercourse of friendly maritime powers. This answer said Mr. Seward, vested exclusively upon the ground that the capture of the Florida was "an unauthorized, unlawful, and indefensible exercise of the naval force of the United States within a foreign country, in defiance of its established and duly recognized government." As to the captured crew of the Florida, it was stated that they would be set at liberty to seek refuge wherever they could find it with the hazard of recapture when beyond the jurisdiction of the United States. With reference to the demand for the return of the Florida to Bahia, Mr. Seward stated that the vessel, while anchored in Hampton Roads, sank on the 28th of November, owing to a leak which could not be seasonably stopped.

In the Myers' case, Vol. 5, page 51, and Vol. 6, page 682, the report reads.

In July, 1890, the consulate of the United States at San Salvador was violated by the forces of the provisional government and the flag torn down. The property and archives of the United States and the personal property of Mr. Myers, the consul, were destroyed and carried away, and Mr. Myers himself subjected to great personal indignities and hardships.

With reference to these things Mr. Blaine, November 20, 1891, declared that the incident was of a very grave and serious character, inconsistent with the friendly relations of the two countries and in direct violation of Art. XXXV, of the treaty of 1870. The government of the United States could not, said Mr. Blaine, with self-respect have accepted less reparation than Mr. Mizner, the American minister, had at the time proposed. This was (1) that the flag should be hoisted in broad daylight by a uniformed commissioned officer of the provisional forces; (2) that, as the flag was hoisted, a military salute should be paid to it; (3) that the consul should be placed in possession of his office, his property, and the archives, and should be allowed fully to resume his rights and prerogatives, including free communication with the United States and their minister; (4) that the minister of foreign affairs of the provisional government should write to the American minister a letter of regret and apology, and (5) that a satisfactory indemnity should be paid for damage done to the property of the United States and the private property of the consul. The first two conditions were complied with, and also the third so far as the property and archives survived; and it was afterwards reported that the secretary-general of Salvador had agreed to comply with the remaining conditions, but this was not done. The government property destroyed in the consulate was valued at \$137.25 and the property of the consul at \$2,035.40; total, \$2,172.65. This amount the Salvadorean government was expected promptly to reimburse. Mr. Myers estimated his personal injuries and sufferings at \$15,000; but whether he was entitled to this amount the United States would, said Mr. Blaine, leave to further mutual consideration.

The Salvadorean government agreed that a satisfactory payment should be made for the damage done to the property of the United States and the private property of the consul, but took the ground that the damages should be sued for before the Salvadorean courts.

Mr. Blaine, in an instruction of April 6, 1892, said that it was unnecessary to discuss what the proper course would be if, during the occurrence in question, the property of an ordinary resident alien had been destroyed. But Mr. Myers was consul of the United States; he had no business and no interests in Salvador separate from his consular business and interests. His property, which was destroyed was properly and necessarily in the American consulate, which by the terms of the treaty, was declared to be inviolable. The incident was never in any of its phases a matter within the jurisdiction of the courts of Salvador, nor could the United States, said Mr. Blaine, consent to submit the agreement which it had made with the government of Salvador to any tribunal other than one of their joint making. It was thought that the determination of the matter ought to be arrived at without difficulty by the Salvadorean minister of foreign affairs and the minister of the United States; and if they should prefer each to appoint a person to examine and report on the question this would be considered a mere matter of detail. As to the question of reparation for the personal injuries to Mr. Myers, although it was not covered by the agreement, it was, upon general principles, regarded, said Mr. Blaine, as